



Testimony for the Senate Judicial Proceedings Committee

March 8, 2023

SB 569 - Correctional Services - Murder - Diminution Credits

UNFAVORABLE

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The ACLU of Maryland opposes SB 569, which would prevent persons incarcerated for murder in the first or second degree from earning diminution credits. Diminution credits help to maintain safety in facilities. The possibility of earning enough credits to be released early incentivizes prisoners to comply with facility rules. As the chair of the Parole Commissioner recognized, “[Parole] is a reward for good behavior and lowers the threat of violence on our prison staff. If you were a lifer and knew you could never get out, you could do what you wanted to. Parole is the primary reason inmates adjust to prison.” Courts have also recognized this incentive — good conduct credits are a behavioral incentive and a means of reducing prison overcrowding. *Stouffer v. Staton*, 152 Md.App. 586, 592 (2003).

In fact, according to the Fiscal and Policy accompanying the bill, the Department of Public Safety and Correctional Services relies heavily on diminution credits in order to maintain safety—

DPSCS advises that it uses an inmate’s ability to earn diminution credits as an incentive to encourage good behavior and participate in rehabilitative programs and/or work programs. By eliminating the applicability of diminution credits for inmates serving a life sentence, DPSCS advises that it loses the ability to modify inmate behavior. In addition, DPSCS advises that the elimination of diminution credits could decrease the number of inmates who are working or participating in programming and increase institutional violence.¹

SB 569 undermines the progress made through the Justice Reinvestment Act. In 2016, this body passed, and Governor Hogan signed the Justice Reinvestment Act into law, which increased the opportunities for earning diminution credits in Maryland. Specifically, according to the fiscal note for SB 1005 (2016): Except for inmates serving a sentence in a State correctional facility for a crime of violence, specified sexual offenses, or specified volume or kingpin drug offenses,

¹ HB 579 Correctional Services - Murder - Diminution Credits, Fiscal and Policy Note (2018).

the maximum possible deduction for diminution credits increased from 20 to 30 days per calendar month. Also, except for that same group of inmates, the deduction for special selected work projects or other special programs, including recidivism reduction programming, increased from 10 to 20 days per calendar month. Furthermore, the types of programs for which an inmate may earn diminution credits were expanded. In addition, the maximum deduction for diminution credits increased for an individual who is serving a sentence in a local correctional facility (for a crime other than a crime of violence or specified volume drug offenses) from 5 to 10 days per month. SB 569 threatens to undermine this progress by wholesale eliminating the possibility of diminution credits for an entire group of inmates.

Diminution credits may also reduce prison costs. Diminution credits allow persons convicted and imprisoned to earn early release through good behavior and engaging in productive activities inside. Maryland spends an estimated \$38,383 per prisoner annually.² Other states have recognized and capitalized on the cost savings of earned credit programs—the New York Department of Corrections saved \$369 million from 1997–2006 due to sentence reductions. Washington State also reported saving an average of \$7,179 per inmate due to earned credit programs.³

Diminution credits have the potential to reduce recidivism. A recent study by the National Conference of State Legislators found that states with earned credit programs actually report lower recidivism rates than states that do not have similar programs.⁴ For example, Wisconsin found that 17% of inmates released early recidivated after the first year, as compared with 28% of those who recidivated after serving the full mandatory sentence.⁵

For the foregoing reasons, the ACLU of Maryland urges an unfavorable report on SB 569.

² Vera Institute of Justice, *The Price of Prisons, what incarceration costs taxpayers: Maryland* (Jan. 2012).

³ National Conference of State Legislators, *Cutting Corrections Costs: Earned Time Policies for State Prisoners* (July 2009).

⁴ *Ibid.*

⁵ *Ibid.*